
OPINION OF THE PUBLIC ACCESS COUNSELOR

MEGAN N. KOROUS,
Complainant,

v.

RAILROAD TOWNSHIP TRUSTEE,
Respondent.

Formal Complaint No.
17-FC-141

Luke H. Britt
Public Access Counselor

BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging that the Railroad Township Trustee (“Trustee”) violated the Access to Public Records Act (“APRA”). Ind. Code §§ 5-14-3-1–10. Trustee Mandy Thomason responded to the complaint on July 5, 2017. The response is enclosed for review. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on June 21, 2017.

BACKGROUND

The Complainant, Ms. Korous, contends that the Railroad Township Trustee violated the APRA by failing to respond to a public records request.

Around May 24, 2017, the Complainant submitted a public records request to the Trustee seeking a copy of the notice and accompanying memoranda from an executive session held on April 11, 2017. The Trustee advised Ms. Korous that her request was not specific enough.

The Complainant subsequently filed a formal complaint with this office alleging an APRA violation. The Trustee contends that she responded to the public records request on May 25 by providing information about the executive session, but not (to my knowledge) a copy of the actual notice and minutes. Instead, the Trustee provided only a screenshot of a Facebook post. The Trustee, in her response, has also asked this Office to comment on the frequency and content of other public records requests made by the Complainant.

ANALYSIS

APRA states that “(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information.” *See* Ind. Code § 5-14-3-1. The Railroad Township Trustee is a public agency under APRA. *See* Ind. Code § 5-14-3-2(n). So, any person has the right to inspect and copy the Trustee’s disclosable public records during regular business hours

unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. Ind. Code § 5-14-3-3(a).

As to the executive session notice and minutes, the request appears to be relatively straightforward. The notice and subsequent memoranda of that meeting contains the information requested. The Trustee should provide copies of each for public inspection and copying upon request.

The notice of an executive session must contain the date, time, and location of the meeting. In addition, the notice must indicate the subject matter of the meeting by specific reference to the enumerated instance or instances for which executive sessions may be held. Ind. Code § 5-14-1.5-6.1(b)(1). The notice must be posted at the location of the meeting at least 48 hours before the meeting. Ind. Code § 5-14-1.5-5(a). Although I encourage the use of Internet notice for public meetings, it is not sufficient by itself to satisfy the Open Door Law (“ODL”).

The meeting memoranda must identify the subject matter of the executive session by specific reference to the enumerated instance or instances for which public notice was given. The governing body is required to certify through a statement in the memoranda and minutes that no subject matter was discussed in the executive session other than the subject matter specified in the public notice. *See* Ind. Code § 5-14-1.5-6.1(d). The memoranda should also include date, time, location and members present. These two documents should be readily available for public inspection and copying.

I have also reviewed the other public records requests submitted by the Complainant. Specifically, the requests for “receipts of funds that were payed (sic) into the township and also receipt of funds that the township payed (sic) out” and “amount of money that has been paid out in legal fees from 2016 till (sic) present date, and what fund these are being appropriated from.”

These requests are indeed overly broad and do not meet the standard of *reasonably particularity* as contemplated by APRA. If the Complainant identifies a particular vendor, project, or subject matter, then perhaps the request could meet the standard for reasonable particularity. Even so, no single constituent is the independent auditor of this information; and therefore, no single constituent is entitled to the information *en masse*.

This is not to say that the requests are “frivolous,” “abusive,” or “vexatious” necessarily, as the Trustee asserts. I am merely stating that the requests must be narrowed down significantly before the Trustee’s obligation to search for, retrieve, and produce any documents is triggered.

A handwritten signature in black ink, appearing to read 'LH Britt', with a stylized flourish at the end.

Luke H. Britt
Public Access Counselor